

2017 Initial Ethics Training

Senior Management Training (Political Appointees)

Welcome to the General Services Administration

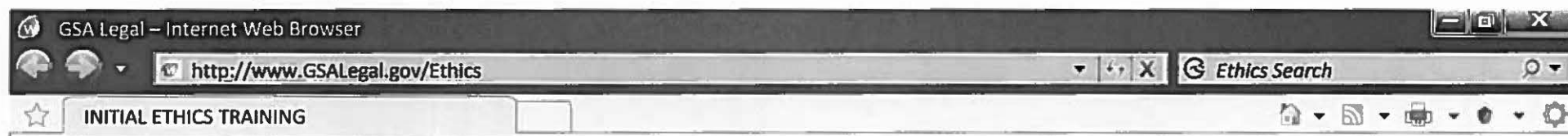
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Presentation Objective

Government Ethics is about Safeguarding the Public Trust by preventing conflicts of interest *before they happen*.

Ethics Presentation Objectives

- Instill an appreciation of the importance of maintaining a strong ethical culture in the executive branch; .. More
- Highlight common ethics issues may encounter; and .. More
- Issue spot ethics issues when they arise. .. More
- You don't need to know the answer, as long as you can spot the problem and seek advice from the General Counsel's ethics law staff. .. More



Presentation Objective Cont'd

As a supervisor you have a heightened personal responsibility for advancing government ethics and serve as models of ethical behavior for subordinates.

- As senior managers, you have a responsibility to help ensure that subordinates are aware of their ethical obligations under the Standards of Ethical Conduct and how to contact agency ethics officials.
- As senior managers, you are also responsible for working with agency ethics officials to help resolve conflicts of interest and enforce government ethics laws and regulations including, but not limited to:
 - Ensuring employees meet their administrative requirement of timely filing their OGE Form 450, OGE Form 278e and OGE Form 278-T.
 - Identifying positions subject to financial disclosure reporting requirements; and
 - Evaluating potential conflicts of interest.

Ethics Training Roadmap

Why Get Advice From An Ethics Attorney?

14 Principles of Ethical Conduct

- Official Capacity vs. Personal Capacity

Conflict of Interest Statutes

- Conflicting Financial Interests
- Impartiality in Performance of Official Duties
- Representational Statutes
- Dual Compensation
- Outside Earned Income Restrictions

Seeking Employment and Post Employment

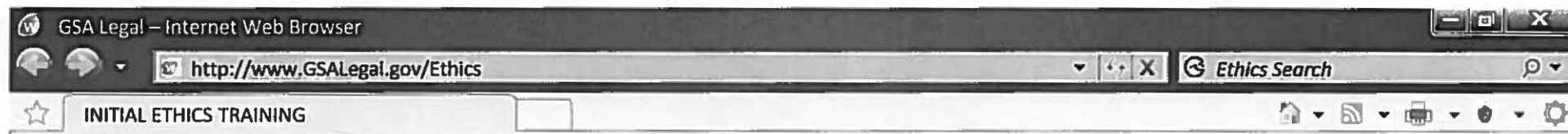
Gifts From Outside Sources

Gifts Between Employees

Misuse of Position

GSA Supplemental Standards of Conduct

Hatch Act



Why get Advice From an Ethics Attorney?

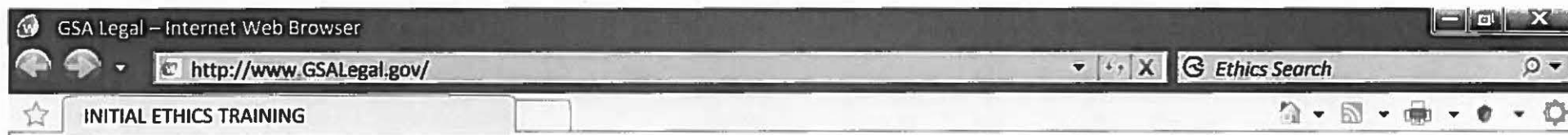
You will receive **“safe harbor”** if you:

- seek advice before taking action
- full and accurate disclosure of the facts/circumstances
- follow the advice of the Ethics Attorney

Safe Harbor: No administrative disciplinary action for violating the Standards of Ethical Conduct if the ethics advice is later determined to be incorrect.

The Fine Print:

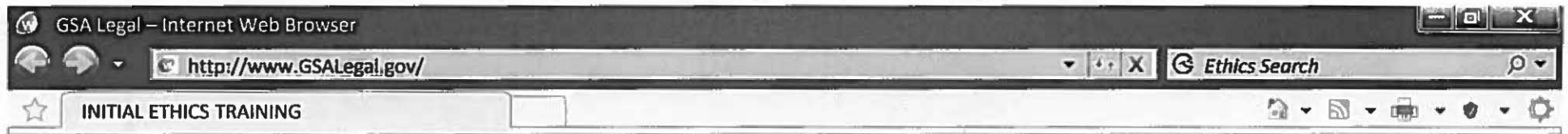
- Ethics Attorneys always remain representatives of the Federal Government; ethics advice does not create an attorney-client relationship
- No Safe Harbor for statutory/criminal provisions.



14 Principles of Ethical Conduct

Helps ensure that every citizen can have complete confidence in the integrity of the Federal Government (5 C.F.R. § 2635.101)

1. Place public service above private gain
2. **Financial interests cannot conflict with official duties**
3. Do not use non-public information for private gain
4. No gifts from prohibited sources
5. Employees must put forth honest effort in performance of duties
6. No unauthorized promises purporting to bind the government
7. **Do not use public office for private gain (no girl scout cookies)**
8. Act impartially and no preferential treatment
9. Protect and conserve government property and only use it for authorized purposes
10. No outside employment or job hunting that conflicts with Federal job
11. **Obligated to disclose waste, fraud, and abuse**
12. Satisfy financial obligations in good faith
13. Uphold EEO laws and regulations
14. **Avoid appearance of unethical conduct/violating the law or ethics regulations**



Official Capacity vs. Personal Capacity

Official Capacity: You can only do what you are authorized to do by your agency.

- When you communicate in an official capacity you are communicating on behalf of GSA, just as if you were standing at a podium at a conference, communicating the agency's views to everyone.

Personal Capacity: You can do anything that's not illegal and not prohibited by regulation or GSA policy.

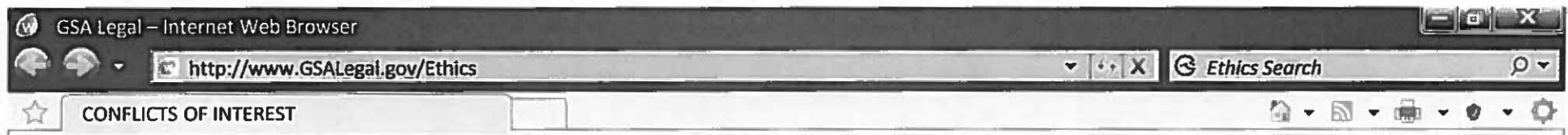
- When you communicate in your personal capacity you are acting on your own time and representing yourself and not the agency or the US Government.
- Remember, even in your personal capacity, you are still subject to certain Federal Ethics Rules.

Conflicts of Interest

Criminal Statutes and Regulations

What are the federal ethics conflicts of interest rules?

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Conflicting Financial Interest

18 U.S.C. § 208

General Rule:

prohibits employees from participating in any particular matter that will affect

1. their own financial interests, or
2. the financial interests of certain others

The “certain others”:

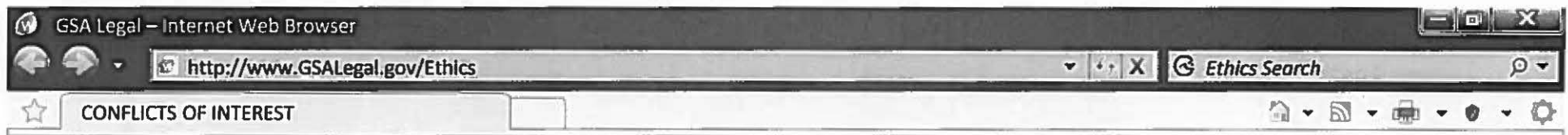
Imputed financial interests of these individuals or organizations:

1. Spouse
2. Minor child
3. General partner
4. Organization which the individual serves as officer, director, trustee, general partner or employee
5. Person or organization with which the employee is negotiating or has an arrangement concerning prospective employment.

Bonus:

Particular Matter is a matter that involves deliberation, decision or action that is focused on:

1. the interests of specific persons, as in contracts, grants, licenses, leases (*particular matter involving specific parties*); or
2. a discrete and identifiable class of persons which does not involve specific parties, as in narrowly tailored rulemaking, legislation, or policy-making of general applicability (*particular matters of general applicability*).



Conflicting Financial Interest:

Impartiality in Performing Official Duties (5 C.F.R. § 2635.502)

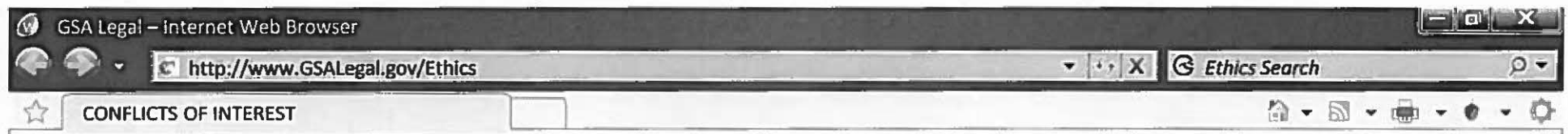
General Rule:

An employee is disqualified from working on a matter if:

- the matter is likely to affect the financial interests of a member of his household
- a person with whom he has a covered relationship is or represents a party to such matter and the circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality.

You have a Covered Relationship with:

- **Members of the household** and relatives with whom the employee has a close personal relationship
- A person with whom the employee has or seeks a **business, contractual or other financial relationship** (other than routine consumer transaction)
- **Spouse's employer**...A person for whom the employee's spouse, parent or dependent child serves as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee
- **Former business partners, clients, and employers** (within last year; or last two years if received extraordinary severance payment; or for two years if still covered by the Ethics Pledge)
- **Organizations in which the employee is an active member.**
 - **Committee/subcommittee chair, officer, etc. = covered relationship**



Conflict of Interest & Impartiality Remedies

Conflict of Interest Remedies

Recusal

- Reassignment (default remedy)

Divestiture (for conflicting assets)

- Certificate of Divestiture

Resignation (For conflicting outside positions)

Waivers & Exemptions

- regulatory exemptions
- individual waivers

Impartiality Remedies

Recusal

- Reassignment (default remedy)

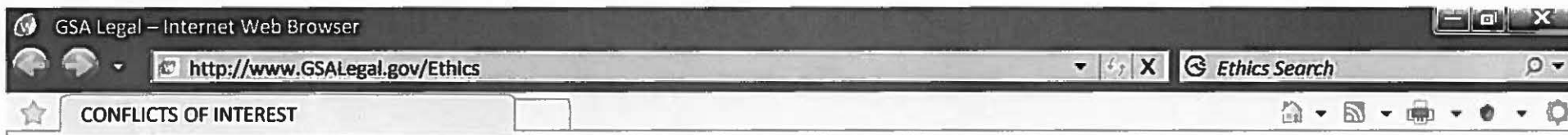
Divestiture (for conflicting assets)

- Certificate of Divestiture

Resignation (For conflicting outside positions)

Authorization

- Agency's interest outweighs a reasonable persons concern re the loss of impartiality/bias



Identifying Potential Conflicts

Integrity.gov

UNITED STATES OFFICE OF
GOVERNMENT ETHICS
★
Preventing Conflicts of Interest
in the Executive Branch

INTEGRITY_{gov}

Play your part.

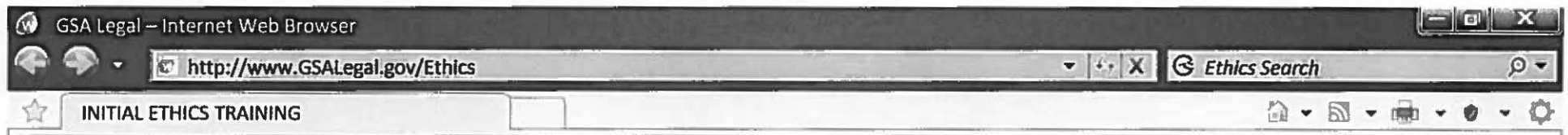
HOME LEARN MORE

Status: Normal. Please report any issues to integrity@oge.gov

Integrity is the U.S. Office of Government Ethics system for electronically filing and reviewing Public Financial Disclosures (OGE Forms 278 and 278-T).

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Login to Integrity



Identifying Potential Conflicts

OGE Form 278e Public Financial Disclosure Reports

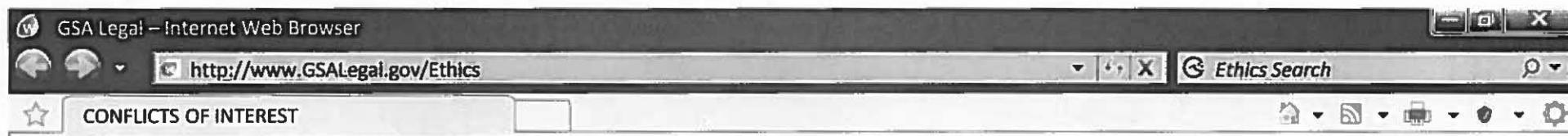
1. New Entrant, Annual, Termination

- completed by all SES and
- Schedule C Employees

2. Periodic Transaction Reports

(STOCK Act requirement)

- Completed by all 278 filers for any purchase, sale, or exchange
- greater than \$1,000 for the following instruments:
 - Stocks
 - Bonds
 - Commodities futures
 - Options
- Must report for spouse, dependent child, and self.
- Due within 30 days of actual notice/not later than 45 days after transaction.



Representational Conflicts of Interest

18 U.S.C. §§ 205, 203

2 General Rules:

1. employees may not: represent another*
(with or without compensation)
2. employees may not seek or accept compensation for:
 - another's representational services

**if done

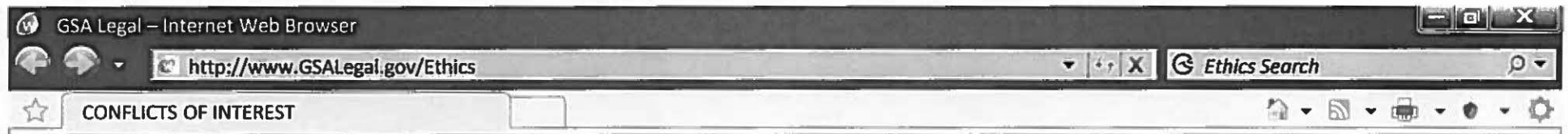
- before a Federal department, agency or court (not Congress)

- in matters where the U.S. is a party or has a substantial interest

Exception:

You may represent:

- Yourself
- Spouse
- Children
- Parents



Dual Compensation

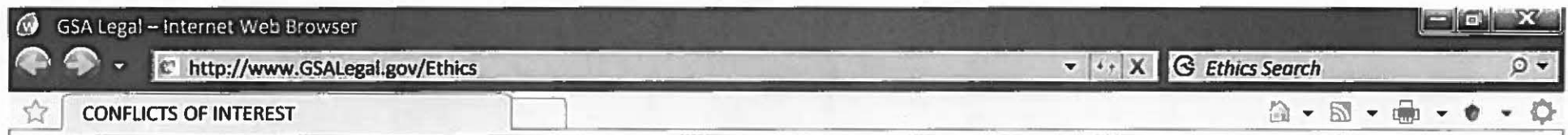
18 U.S.C. § 209

Prohibits employees from:

Seeking or receiving any compensation or supplementation of salary from a non-Federal source, in return for performance of their official duties.

Key idea:

Only the Government can pay you to do your Government job.



Outside Earned Income Limitations

5 C.F.R. § 2636.301 et. seq.

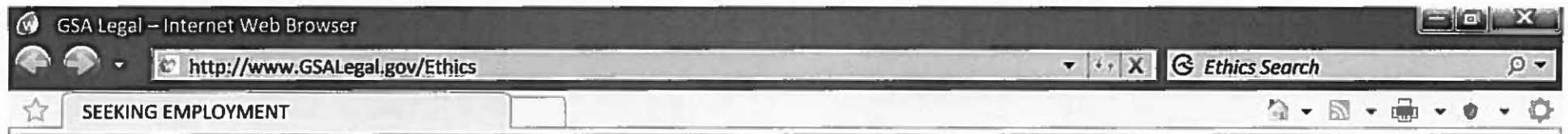
Noncareer Senior Executive Service Members:

- 15% limitation on outside earned income (prorated based on date of appointment)
- Prohibited from receiving income from:
 - practicing a profession involving a fiduciary relationship;
 - receiving income for affiliating with or being employed entities which involves a fiduciary relationship;
 - receiving income for serving as an officer or board member of any association, corporation or other entity;
 - permitting his/her name to be used by any firm, partnership, association, corporation, or other entity which provides professional services involving a fiduciary relationship; and
- Prohibited from teaching without prior approval from the DAEO.

Seeking Employment and Post Government Employment

What happens if I want a new job?

Search



Seeking Employment

General Rule:

You are prohibited from participating in any particular matter that will affect the financial interest of a prospective employer

Seeking Employment Definition:

Everything from submitting a resume to unsolicited offers to negotiating terms – big scope

Obligation to disqualify

If a matter comes before you that will affect the financial interest of your prospective employer

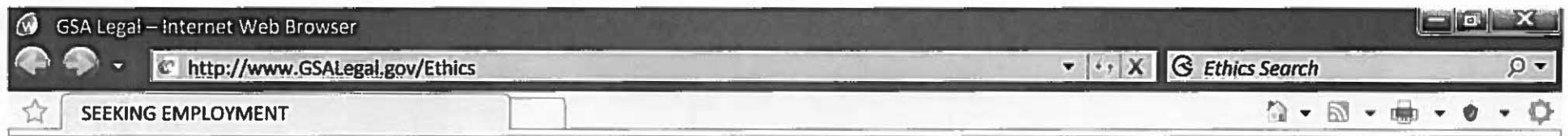
Obligation to notify*

If a you are required to disqualify, you *should* notify your supervisor

* Procurement Integrity Act requires notification

Best practice

cover yourself -- in writing and delivered to your supervisor and to ethics counsel.



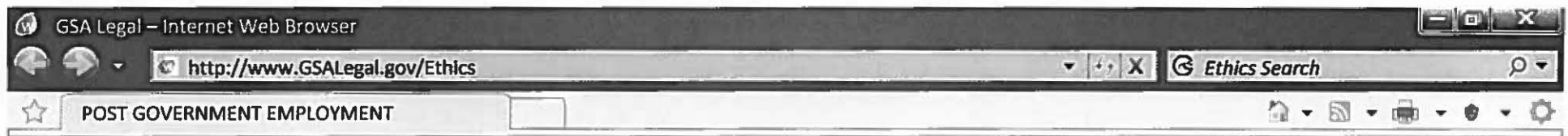
STOCK Act

Negotiating for Employment

3-day Notice Requirement for OGE 278 filers:

- Written “notification statement”
- within **3** days of negotiating for post-government employment* with a non-Federal entity
- A written recusal when there is a conflict of interest
- A template is available through the Ethics Law Staff

*Not required for concurrent employment, but see seeking employment requirements



Post Government Employment

18 U.S.C. § 207

General Rule:

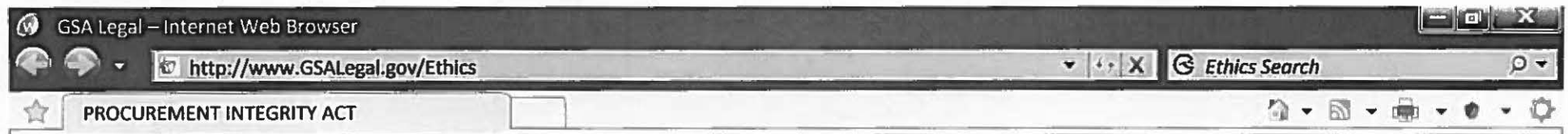
Prohibits you from communicating to or appearing before the Federal government, if done on behalf of another, in connection with a specific party matter on which you worked.

- **Lifetime Ban**: Applies to matters you participated personally and substantially at any time during Federal service.
- **2-Year Ban**: Applies to matters that fell under your official responsibility during your last year of Federal employment.
- **1-year Cooling Off**: Applies to "Senior" employees, for one year after terminating government service to from communicating to or appearing before their former agency, on behalf of another, in connection with any matter on which they seek official action.

Procurement Integrity Act

Ethics, Acquisitions and the F.A.R.

Search



Procurement Integrity Act

41 U.S.C §§ 2101-2107

Applies to acquisitions using competitive procedures for goods and services from non-federal sources by Federal agency using appropriated funds.

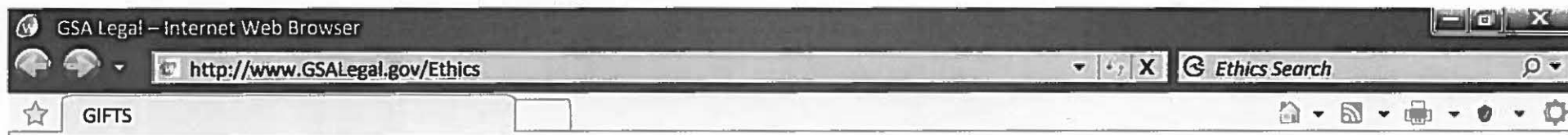
3 Ethics Rules:

- **Report Prospective Employment** from Offerors/Bidders if you work personally and substantially on an acquisition over the simplified acquisition threshold (currently \$150,000 for most acquisitions) when working on: the specification; statement of work; evaluation of bids/proposals, selecting a source or negotiating the terms or conditions of the contract.
- **Cannot receive compensation** from the winning bidder of a contract in excess of \$10 million for 1 year after serving in a specific position on the acquisition/contract (ex. contracting officer; source selection authority, source selection, financial or technical evaluation board member; program manager, or made the decision to award the contract, modifications, or task orders; approve payments or settle claims)
- **Prohibited from revealing** the following nonpublic bid, procurement award, source selection information, as well as any other nonpublic information.

Standards of Ethical Conduct For Employees of the Executive Branch

Gifts

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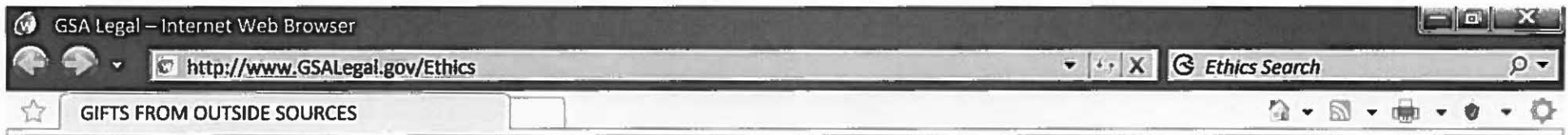


Gifts and the Appearance of Impropriety

It is never inappropriate and frequently prudent for an employee to decline a gift if acceptance would cause a reasonable person to question the employee's integrity or impartiality.

Relevant factors to consider are, whether

- (i) the gift has a high market value;
- (ii) the timing of the gift creates the appearance that the donor is seeking to influence an official action;
- (iii) the gift was provided by a person who has interests that may be substantially affected by the performance or nonperformance of the employee's official duties; and
- (iv) acceptance of the gift would provide the donor with significantly disproportionate access.



Gifts from Outside Sources

General Rule:

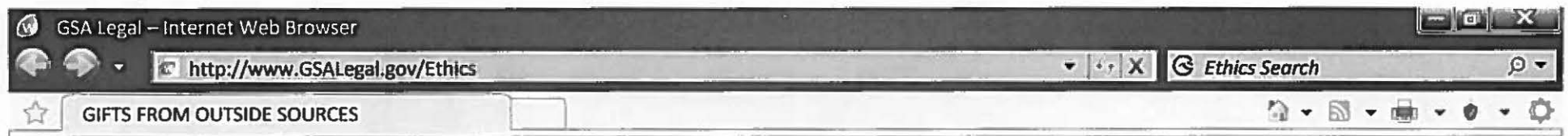
1. You may not solicit or accept a gift from contractors or vendors (& all other ***prohibited sources***)
2. You may not accept a gift given because of your official position

A gift is *any thing* of value:

- Cash
- Tangible items
- Services
- Entertainment, hospitality, gratuity, or favor
- Training, travel, transportation, lodging and meals
- A discount, loan, or forgiveness of a loan

NOT GIFTS:

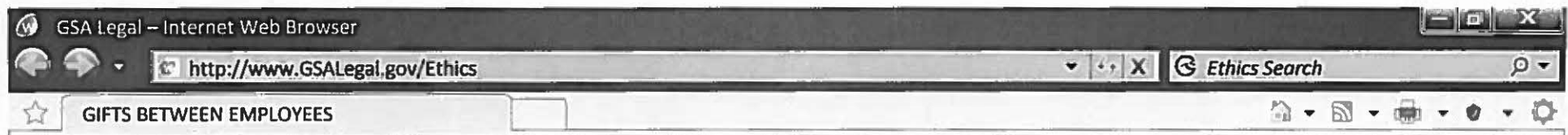
1. Snacks such as coffee or donuts that are not part of a meal (DOES NOT INCLUDE ALCOHOL)
2. Greeting cards or items of little intrinsic value
3. Things publicly available
4. Opportunities and benefits, including favorable rates and commercial discounts available to the public or all Government employees [*e.g., Cell Phone Rates reduction by Cell Phone Company*]
5. **Things for which you pay market value**



Gifts from Outside Sources

Common exceptions to the Gift Rule:

1. Gifts of \$20 or less (\$20/\$50 Rule)
2. Gifts based on a personal relationship ["Friends & Family" Rule]
3. Gifts based on outside business/employment relationships
4. Widely attended gatherings and other events
 - Local Events;
 - Attendance of 100 or more who have a diversity of interests;
 - Best Interest of the Agency



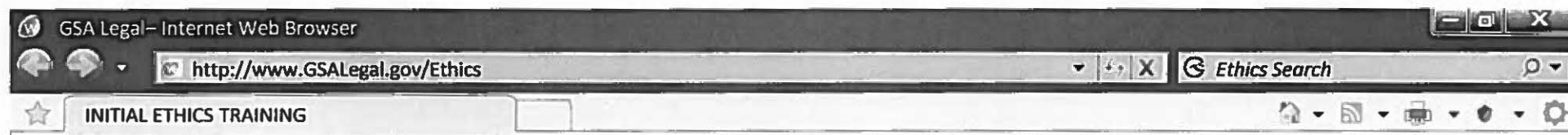
Gifts Between Employees

General Rules:

- Employees **may not give a gift** to an official superior or solicit contributions from co-workers for a gift to a superior
- In general **may not accept a gift** from an employee receiving less pay

Exceptions to the Rules:

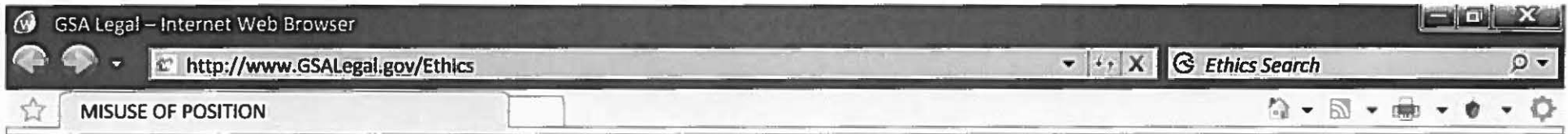
- Occasional basis (including when gifts are traditionally exchanged)
 1. a gift valued at **\$10 or less**
 2. group food & refreshments may be accepted
- Special, infrequent occasions (birth, marriage) *or* those that terminate the superior-subordinate relationship (transfer or retirement),
 1. you may accept a gift from an individual or a donating *group* of employees - 5 CFR § 2635.304(b)



Standards of Ethical Conduct For Employees of the Executive Branch

Misuse of Position

Search



Misuse of Position

General Rule:

You may not use (or permit use of) your GSA title, position, or authority of office to:

- fundraise
- endorse a product, service, or enterprise
- imply the Government sanctions or endorses your personal activities or those of another
- induce or coerce another to provide any benefit to self or others

Use of official time:

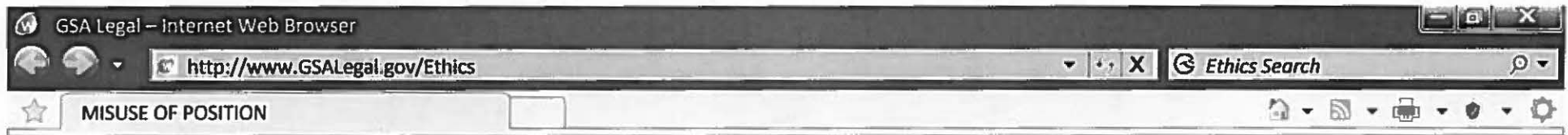
- obligation to use government time to perform government work

Use of nonpublic information:

- Prohibited from financial transactions using nonpublic information
- May not allow improper use of nonpublic information to further own private interest or that of another

Use of Government property:

- Affirmative duty to protect and conserve Government property; and
- Prohibited from using such property, or allowing its use, for other than authorized purposes.



Misuse of Position

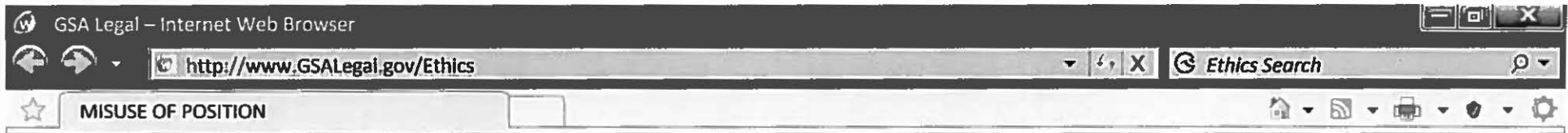
What about GSA's "Limited personal use" of government resources?

General rule: Limited personal use of government resources can be OK when:

- Not on duty time
- Minimal or no cost to GSA
- Does not interfere with performance of official duties
- Does not violate other rules

"Limited personal use" **never** permitted for...

1. Political Activities
2. Pornography
3. Chain Letters
4. Sales or Commercial Activities
5. Gambling
6. Fundraising Solicitations
7. Activities that reflect adversely on GSA



Misuse of Position

Exception To The Rule for Teaching, Speaking, Writing Activities:

may use official title or position only when used as one of a number of other biographical details.

Social Media Rules:

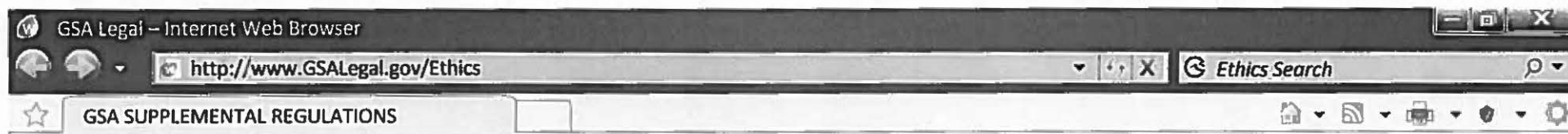
You are allowed to have personal websites, Facebook accounts, blogs and the like outside of work.

- Remember that when you use your social media tools personally, it shouldn't appear to others as though you are speaking for GSA.
- Remember, even in your personal capacity, your use of social media may still be subject to the Hatch Act.
- Employees may provide official title/position on the personal profile page of their social media sites, however, the context for this use must make it clear that the agency is not endorsing or sanctioning the employee's activities, content, or opinions.

GSA Supplemental Standards of Conduct

What are the GSA Supplemental Standards of Conduct?

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GSA Supplemental Standards of Conduct

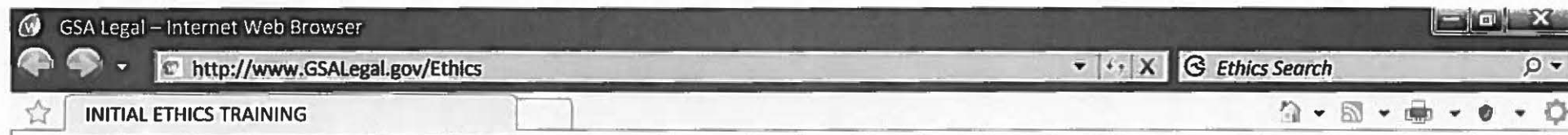
1. Prior Approval for Outside employment with a Prohibited Source
2. Purchases of GSA-auctioned Items
 - prohibited, generally
3. Involved with the Acquisition or Disposal of real estate
 - Prohibited, generally from involvement in any real estate purchases or interests in real estate.
4. Sales to subordinates
 - Prohibited – unless it is your house
5. Taking/disposing of Gov't Property
 - Don't do it
6. Reporting waste, fraud, abuse, corruption
 - Affirmative obligation

Outside Employment Rule

Supervisor approval required for "employment" with a prohibited source, compensated, or not.

"Prohibited Source"

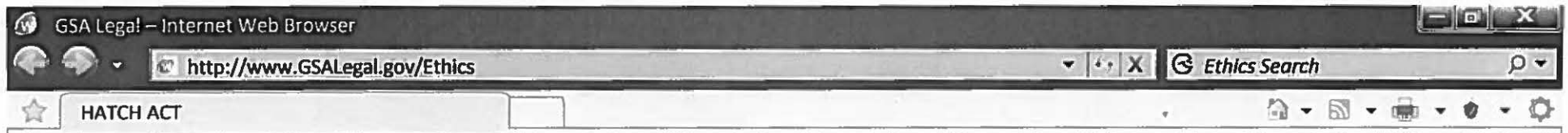
- Doing business or seeking to do business with GSA
- Seeking official action by GSA
- Has interests that may be substantially affected by performance or nonperformance of your official duties, or
- Is an organization a majority of whose members are prohibited sources to GSA



The Hatch Act

What is the Hatch Act?

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The Hatch Act

“An Act to Prevent Pernicious Political Activities”

PURPOSE:

Governs and limits Federal Executive Branch employees’ political activities

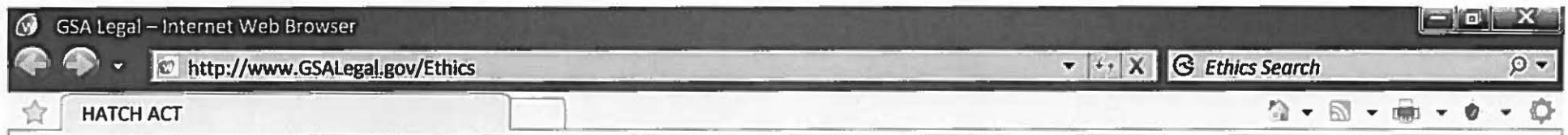
General Rule:

The Hatch Act restricts federal employees from participating in partisan political activities.

Political Activity: Activity directed toward the success or failure of:

- a political party;
- a candidate for partisan political office; or
- a partisan political group

*Activity directed toward
the success or failure:
OSC gives broad interpretation,
Including your personal opinion*



Hatch Act Restrictions

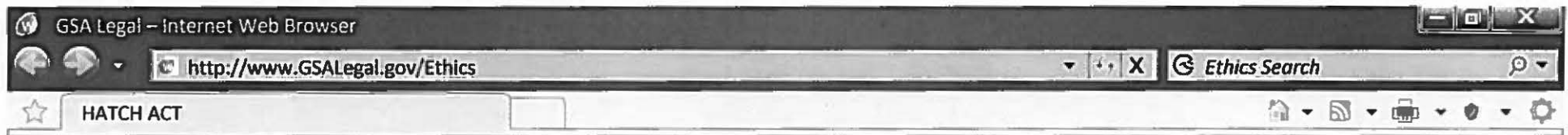
24x7x365 restrictions: applies to all employees – at all times

Federal employees **may not**:

- use official authority or influence to interfere with election
- solicit or discourage political activity of anyone with business before their agency
- **solicit or receive political contributions**
- be candidates for public office in partisan elections

Federal employees **may not** engage in political activity while:

- On duty
- In a government office
- Wearing an official uniform, badge, or insignia
- Using a government vehicle



Hatch Act

Permissible Activities

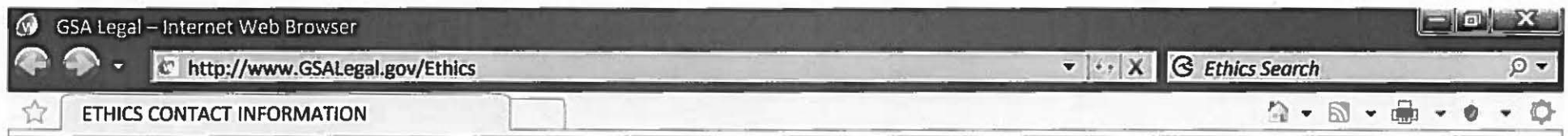
All Federal employees may:

- Register to vote and vote
- Make a financial contribution to a campaign
- Be a candidate for non-partisan office
- Join political clubs or parties
- Express personal opinions about candidates and issues
- Sign nominating petitions
- Attend political rallies and conventions
- Participate in nonpartisan activities

Ask Ethics?

GSA Contact Information

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GSA Ethics Contact Information

Ethics Law Staff – (202) 501-0765

Eugenia Ellison
Associate General Counsel
Alternate Designated Agency Ethics Official
eugenia.ellison@gsa.gov

Shana Vinson
Assistant General Counsel
shana.vinson@gsa.gov

Debra Zusin
Assistant General Counsel
debra.zusin@gsa.gov

Crystal Nieves
Assistant General Counsel
crystal.nieves@gsa.gov

Jacqueline Henry
Ethics Specialist
jacqueline.henry@gsa.gov